

CHAPTER 30.1-32 TRUST REGISTRATION

30.1-32-01. (7-101) Duty to register trusts. The trustee of a trust having its principal place of administration in this state shall register the trust in a district court serving the county encompassing the principal place of administration. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the trust instrument, is:

1. The usual place of business of the corporate trustee if there is but one corporate cotrustee; or
2. The usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate cotrustee; and otherwise
3. The usual place of business or residence of any of the cotrustees as agreed upon by them.

The duty to register under this chapter does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release. The clerk of the district court shall keep a record of all trust registrations, and of any orders, or responses relating thereto, by the district court, and shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information.

30.1-32-02. (7-102) Registration procedures - Fee. Registration must be accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. Any person filing a statement under this section or a petition for allowance of trustee's annual report or other remedies shall pay to the clerk of district court a filing fee as prescribed in section 27-05.2-03. The statement must indicate whether the trust has been registered elsewhere. The statement must identify the trust:

1. In the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate.
2. In the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument.
3. In the case of an oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries, and time of performance.

If a trust has been registered elsewhere, registration in this state is ineffective until the earlier registration is released by order of the court where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this state.

30.1-32-03. (7-103) Effect of registration.

1. By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the district court in any proceeding under section 30.1-33-01 relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding must be delivered to the trustee, or mailed to the trustee by ordinary first-class mail, at the trustee's address as listed in the registration or as thereafter reported to the district court and to the trustee's address as then known to the petitioner.

2. To the extent of their interests in the trust, all beneficiaries of a trust properly registered in this state are subject to the jurisdiction of the district court of registration for the purposes of proceedings under section 30.1-33-01, provided notice is given pursuant to section 30.1-03-01.

30.1-32-04. (7-104) Effect of failure to register. A trustee who fails to register a trust in a proper place as required by this chapter, for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, is subject to the personal jurisdiction of any district court in which the trust could have been registered. In addition, any trustee who, within thirty days after receipt of a written demand by a settlor or beneficiary of the trust, fails to register a trust as required by this chapter is subject to removal and denial of compensation or to surcharge as the district court may direct. A provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee is not subject to the jurisdiction of the district court, is ineffective.

30.1-32-05. (7-105) Registration, qualification of foreign trustee. A foreign corporate trustee is required to qualify as a foreign corporation or a foreign limited liability company doing business in this state if it maintains the principal place of administration of any trust within the state. A foreign cotrustee is not required to qualify in this state solely because its cotrustee maintains the principal place of administration in this state. Unless otherwise doing business in this state, local qualification by a foreign trustee, corporate, limited liability company, or individual, is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state, or maintain litigation. Nothing in this section affects a determination of what other acts require qualification as doing business in this state.